

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

VIRNETX INC., et al	§	
	§	
V.	§	CIVIL NO. 6:12-CV-855
	§	
APPLE INC.	§	

MINUTES FOR MOTION HEARING AND PRETRIAL CONFERENCE
HELD BEFORE JUDGE ROBERT W. SCHROEDER III
AUGUST 3, 2020

OPEN: 10:02 a.m.

ADJOURN: 5:49 p.m.

ATTORNEYS FOR PLAINTIFFS: Brad Caldwell, Jason Cassady, Austin Curry, Daniel Pearson, Claire Henry, Chris Bunt, Johnny Ward and Andy Tindel

ATTORNEY FOR DEFENDANTS: Greg Arovas, Robert Appleby, Jeanne Heffernan, Leslie Schmidt, Joseph Loy, Aaron Resetarits, Akshay Deoras, Glenn Thames and Mike Jones

LAW CLERK: Kain Day

COURTROOM DEPUTY: Betty Schroeder

COURT REPORTER: Kate McAlpine

(VIA VIDEO)

10:02 a.m. Case called; parties introduce themselves and announce ready; Court welcomes everyone and gives preliminary comments

10:09 a.m. Court details the reconfiguration of the courtrooms; will use three courtrooms; Steger courtroom for trial; Barker courtroom for overflow; Mitchell courtroom for jury room; parties can do a walk through of the courtroom on Friday, August 14 after picking up the questionnaires; each side will have four people at counsel table during voir dire; beginning on the second day of trial, parties may have up to

four additional people in the courtroom

- 10:19 a.m. Mr. Brad Caldwell questions the Court; Court responds
- 10:22 a.m. Mr. Mike Jones questions the Court; Court responds
- 10:24 a.m. Court details the process of jury selection; will have 8 jurors; will split the panel in two; first group will be the first half of the alphabet and will start around 9:30; second group will be the second half of the alphabet and will start around 2:30; panel members will not be assigned a number; after qualification of second panel, the panels will be shuffled and a strike list will be made; 3 peremptory strikes per side
- 10:39 a.m. Mr. Johnny Ward questions the Court; Court responds
- 10:41 a.m. Mr. Caldwell questions the Court; Court responds - each side will get 30 minutes for each voir dire section
- 10:42 a.m. Mr. Chris Bunt questions the Court; Court responds - questionnaires can be picked up at noon on August 14
- 10:43 a.m. Court discuss conduct of trial; days will start at 10:00 and end at 4:00; lunch will be provided and taken around 11:30 for about an hour; break around 2:00; disputes to be heard around 9:30 a.m.; written disputes must be filed by 9:00 p.m. the night before and any response to be filed by 5:00 a.m.; there will be no side bars during the trial
- 10:48 a.m. Mr. Caldwell questions the Court; Court responds - there will be attorney break out rooms - contact Kyla Dean in Tyler
- 10:51 a.m. Mr. Jones questions the Court; Court responds - further questions for the panel will be taken up during hardship and cause
- 10:53 a.m. Mr. Greg Arovas questions the Court - Court responds - open to ideas from the parties regarding format on objections and side bars
- 10:56 a.m. Court discusses exhibits and demonstratives; parties are to meet and confer regarding any disputes before raising a dispute to the Court; exhibits not used do not go back to the jury regardless if admitted; demonstratives are not evidence unless parties agree otherwise; procedure for sealing courtroom will stay the same; jury notebooks will be allowed; there will be no questions from the jury
- 11:02 a.m. Recess
- 11:20 a.m. Mr. Jason Cassady argues VirnetX's Motions in Limine (dkt. #896) - MIL A

11:33 a.m. Mr. Jones responds to argument

11:35 a.m. Mr. Cassady replies

11:37 a.m. Court responds; Mr. Cassady replies; Court responds

11:38 a.m. Ms. Jeanne Heffernan argues Apple's Motions in Limine (dkt. #895) - MIL 1

11:5 a.m. Mr. Caldwell responds to argument

12:00 p.m. Break

12:07 p.m. Mr. Caldwell continues with response

12:12 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

12:17 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

12:28 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

12:32 p.m. Ms. Heffernan replies

12:39 p.m. Court questions Ms. Heffernan; Ms. Heffernan responds

12:42 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds and responds to Ms. Heffernan's reply

12:47 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

12:49 p.m. Ms. Heffernan replies

12:51 p.m. Recess

1:55 p.m. Mr. Daniel Pearson argues VirnetX's MIL B

2:02 p.m. Court questions Mr. Pearson; Mr. Pearson responds

2:08 p.m. Court questions Mr. Pearson; Mr. Pearson responds

2:15 p.m. Mr. Robert Appleby responds to argument

2:30 p.m. Mr. Pearson replies

2:33 p.m. Court questions Mr. Pearson; Mr. Pearson responds

2:36 p.m. Mr. Appleby responds

2:38 p.m. Court questions Mr. Appleby; Mr. Appleby responds

2:40 p.m. Mr. Pearson replies

2:41 p.m. Mr. Arovas argues Apple's MIL 2

2:46 p.m. Court questions Mr. Arovas; Mr. Arovas responds

2:53 p.m. Mr. Caldwell responds to argument

2:56 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

3:04 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

3:05 p.m. Mr. Arovas replies

3:09 p.m. Mr. Caldwell responds

3:10 pm. Mr. Jason Curry argues VirnetX's MIL C

3:20 p.m. Court questions Mr. Curry; Mr. Curry responds

3:29 p.m. Court questions Mr. Curry; Mr. Curry responds

3:30 p.m. Mr. Appleby responds to argument

3:36 p.m. Mr. Curry responds

3:38 p.m. Court questions Mr. Appleby; Mr. Appleby responds

3:39 p.m. Court questions Mr. Curry; Mr. Curry responds

3:41 p.m. Recess

3:56 p.m. Mr. Cassidy argues VirnetX's MIL D

4:07 p.m. Court questions Mr. Cassidy; Mr. Cassidy responds

4:09 p.m. Ms. Schmidt responds to argument

4:14 p.m. Mr. Cassidy responds

4:18 p.m. Court questions Mr. Cassidy; Mr. Cassidy responds

4:20 p.m. Court questions Ms. Schmidt; Ms. Schmidt responds

4:21 p.m. Court questions Mr. Cassady; Mr. Cassady responds

4:21 p.m. Mr. Akshay Deoras argues Apple's MIL 5

4:27 p.m. Mr. Curry responds to argument

4:30 p.m. Court questions Mr. Curry; Mr. Curry responds

4:35 p.m. Mr. Deoras responds

4:37 p.m. Mr. Cassady argues VirnetX's MIL E

4:39 p.m. Mr. Arovas responds to argument

4:41 p.m. Mr. Cassady responds

4:43 p.m. Mr. Arovas and Mr. Cassady announce that is all the MILs

4:43 p.m. Ms. Heffernan argues Apple's Daubert motion (exclude Weinstein)

4:47 p.m. Mr. Pearson responds to argument

4:52 p.m. Court questions Mr. Pearson; Mr. Pearson responds

4:55 p.m. Ms. Heffernan responds

4:56 p.m. Court questions Ms. Heffernan; Ms. Heffernan responds

4:59 p.m. Mr. Pearson responds

5:01 p.m. Court questions re Apple's MIL 6; Mr. Cassady responds parties reached agreement

5:02 p.m. Mr. Jones argues Apple's Motion to Continue

5:06 p.m. Court request parties to check that speakers are muted

5:07 p.m. Mr. Jones continues argument

5:13 p.m. Court questions Mr. Jones; Mr. Jones responds

5:16 p.m. Court questions Mr. Jones; Mr. Jones responds

5:19 p.m. Mr. Caldwell responds to argument

5:26 p.m. Court questions Mr. Caldwell; Mr. Caldwell responds

5:28 p.m. Mr. Jones responds

5:30 p.m. Court questions Mr. Jones; Mr. Jones responds

5:33 p.m. Mr. Caldwell responds

5:36 p.m. Court asks parties to check with their clients re all remote testimony; Mr. Caldwell responds; Court responds; Mr. Jones responds; Court asks parties to let the Court know their clients' position

5:39 p.m. Court will not have ruling on continuance motion in the next couple of days; Court will have MIL rulings out soon; Court questions re schedule for teams moving in to Tyler; Mr. Caldwell responds; Mr. Jones responds

5:41 p.m. Mr. Caldwell questions re time for trial; Court responds 10 hours; Court questions re time for closing; Mr. Caldwell responds; Court will consider 30 or 45 minute closings; Mr. Arovas responds

5:44 p.m. Court asks parties to meet and confer after MIL rulings are out and determine how it affects depositions designations and exhibit objections; Mr. Caldwell responds; Mr. Arovas responds

5:46 p.m. Court addresses renewed MILs; Mr. Cassidy responds; Ms. Schmidt responds

5:49 p.m. Court will get orders out

5:49 p.m. Adjourned